

Consumers, **TAKE** Action

Remedial steps you
can take if you
have been
defrauded



Missouri Attorney General

CHRIS KOSTER



Table of contents

Overview	3
Register a complaint	4
Cancel your contract	5
Contact Better Business Bureau, Attorney General's Office	6
Contact your credit card company	7
Contact an agency to help resolve complaints State, federal, private agencies are listed	8
File a lawsuit in small claims court How small claims lawsuits are filed What happens in court How to prepare your lawsuit	17
Seek legal action in other courts	21
Other AG brochures, online topics	23

The Office of the Missouri
Attorney General is an equal
opportunity employer.



**Revised
March 2009**

Overview

If your muffler still rattles after it was fixed or your \$250 catalog order still hasn't arrived after two months, you can try several remedies before filing a lawsuit as your last action.

A carefully worded complaint, cancellation of a sales contract or pursuit of monetary losses of up to \$3,000 in small claims court are all options for you before turning to a lawyer.

3



Always first try to settle a dispute out of court



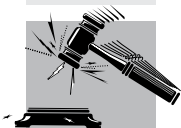
ago.mo.gov

Register a complaint

Contact the offending party and try to settle your dispute first before contacting outside help.

Complaints will be more effective if you send **copies** of receipts and other documents explaining your case.

If you are contacting the store or business by mail, send your complaint letter by registered mail and keep a copy for your records. If you are making your complaint in person, try to remain calm, but be firm and make sure you understand the other party.



Cancel your contract

Missouri law allows you three days from the time you sign a **home-solicited credit sales contract** to cancel the sale. However you must do so by sending written notice to the company within three business days after the date of transaction. Keep a copy.

Once the business receives notice, it has 10 days to refund any goods or money that has been received, return any signed documents and inform you the business will pick up or let you keep items that were left behind.

State law does not cover emergency home repairs, sales and services, or cases in which circumstances do not allow the goods to be returned in as good condition as they were in when the buyer received them.

You also may cancel within three days any contract in which your house was put up as collateral or security for the contract.

Contracts for vacation timeshares can be canceled within five days.

5



To file a complaint with the Attorney General's Office, go online or call the Consumer Protection Hotline:

[ago.](http://ago.mo.gov)

mo.gov

or

800-392-8222



ago.mo.gov

Contact Better Business Bureau, AG's Office

Contact your local Better Business Bureau and the Attorney General's Office and file a formal complaint if you're not satisfied with the business.

If an individual or a business is violating the law, then action will be quicker if you contact both offices simultaneously.

If the offending party is located outside Missouri, then also contact that state's attorney general.

When informal attempts to settle a dispute are unsuccessful, you may turn to the Better Business Bureau, which has offices in St. Louis (314-645-3300), Kansas City (816-421-7800) and Springfield (417-862-4222).

The BBB offers a free consumer arbitration service to settle disputes between businesses and consumers.

Both parties must agree to the process and any decision of the arbitrator is legally binding. An attorney is not needed. The arbitration process can be handled by mail, phone or in the office.



Contact your credit card company

If you used a credit card to pay for a disputed service or product, you may be able to recover your money.

Write your credit card company a letter recording details of the matter. However, there is a deadline. You must mail the letter within 60 days after you receive the disputed bill.

7



Credit card companies may offer you some protection in disputes involving purchases.



ago.mo.gov

Contact an agency to help resolve complaints

Missouri consumers should take aggressive action to halt misleading business practices.

To help consumers take action, the Attorney General's Office has compiled a list of agencies and organizations familiar with consumer complaints and questions.

If you have encountered problems with an individual or business but are unable to resolve differences, remember to:

- Contact the company in writing regarding your problem. Always keep a copy of your letter for your files.
- Never send original documents, such as bills, to a company. Keep the originals for your files and send copies.
- Consider contacting one of the following agencies if you are unable to resolve a problem:



STATE AGENCIES

ATTORNEY GENERAL'S OFFICE

Missouri No Call list

ago.mo.gov/nocalllaw/

Toll-free 866-BUZZOFF (866-289-9633)

Reduce unwanted telemarketing calls to your home by registering for free on the No Call list.

Check a Charity

ago.mo.gov/checkacharity/

Donors can find out what percentage of their gifts go to the charitable purpose and what percentage is used for administrative costs.

DIVISION OF FINANCE

Truman Building, Room 630

P.O. Box 716

Jefferson City, MO 65102-0716

www.missouri-finance.org

573-751-3242

Handles complaints about debt collection and harassment, mortgage bankers, credit bureaus, payday and title loan stores and other lenders.



To file a complaint with the Attorney General's Office or to see if complaints have been made against a company, go online or call the Consumer Protection Hotline:

**ago.
mo.gov**

**800-392-
8222**



ago.mo.gov

DEPARTMENT OF INSURANCE

Consumer Affairs

Truman Building, Room 830

P.O. Box 690

Jefferson City, MO 65102-0690

Hot line: 800-726-7390

www.insurance.mo.gov

Handles complaints regarding insurance companies and will verify credentials of insurance sales representatives.

PUBLIC SERVICE COMMISSION

Truman Building, Room 530

P.O. Box 360

Jefferson City, MO 65102-0360

www.psc.mo.gov

800-392-4211

Manufactured housing hot line:

800-819-3180

Investigates complaints against public utilities including service problems, overcharges and deposits, and manufactured housing (such as mobile homes) defects.

OFFICE OF CHIEF DISCIPLINARY COUNSEL (FOR ATTORNEYS)

3335 American Ave.

Jefferson City, MO 65109

www.mochiefcounsel.org

573-635-7400

Processes complaints against attorneys in Missouri.



SECRETARY OF STATE

State Information Center

600 W. Main St.

Jefferson City, MO 65101

www.sos.mo.gov

Securities/investments: 800-721-7996

Toll-free hot line handles complaints and inquiries concerning stockbrokers, broker-dealers and investments.

Corporations: 573-751-4153

Provides information on registrations of corporations, fictitious names, benevolent organizations and limited liability companies.

FEDERAL AGENCIES

FEDERAL INFORMATION CENTER

www.info.gov

800-333-4636

Provides phone numbers and information about federal agencies and programs.

AVIATION CONSUMER PROTECTION DIVISION

U.S. Department of Transportation

U.S. Department of Transportation

C-75, Washington, DC 20590

<http://airconsumer.ost.dot.gov/>

202-366-2220

Handles airline service complaints.

Consumers are encouraged to first contact the airline to try to resolve a problem.

11



Call for federal info: The Federal Information Center provides phone numbers and information about federal agencies and programs:

800-333-4636



ago.mo.gov

**FEDERAL COMMUNICATIONS
COMMISSION (FCC)**

2025 M St., N.W.

Room 6202 & 8210

Washington, DC 20554

www.fcc.gov

888-225-5322

Handles complaints and inquiries regarding telephone systems, radio or television.

FEDERAL TRADE COMMISSION (FTC)

Washington, DC 20580

(Accepts written complaints only)

www.ftc.gov

Toll-free 877-382-4357

TTY: 866-653-4261

Federal consumer protection agency.

(You also can go to www.consumer.gov, a one-stop link to a broad range of federal information on consumer issues.)

**LABOR DEPARTMENT,
WAGE AND HOUR DIVISION**

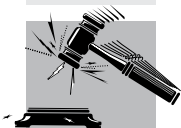
www.dol.gov

Toll-free 866-487-9243

Kansas City district: 913-551-5721

St. Louis district: 314-539-2706

Handles wage disputes.



**NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION**

*U.S. Department of Transportation
Washington, DC 20590*

www.safercar.gov

Toll-free 888-327-4236

TTY: 800-424-9153

Provides information about safety-related automotive problems.

**U.S. CONSUMER PRODUCT SAFETY
COMMISSION**

Washington, DC 20207

www.cpsc.gov

Product Safety Hotline: 800-638-2772

TTY: 800-638-8270

Receives reports regarding hazardous products or product-related injuries, and provides product-recall information.

U.S. POSTAL INSPECTION SERVICE

Chief Postal Inspector

475 L'Enfant Plaza, S.W.

Washington, DC 20260-2100

<http://postalinspectors.uspis.gov>

877-876-2455

Handles inquiries involving problems ordering merchandise or transacting business by mail, or if you suspect you have been a victim of a mail fraud or misrepresentation scheme.

File a complaint in other states: If you file a complaint in Missouri against a company located in another state, you also should file a complaint with that state's attorney general.



ago.mo.gov

PRIVATE AGENCIES**AARP**

601 E St., N.W.
Washington, DC 20049
www.aarp.org
888-687-2277

Lobbies for and promotes programs and issues of interest to seniors.

BBB WISE GIVING ALLIANCE

www.give.org
703-276-0100
Provides information on national nonprofit organizations.

BETTER BUSINESS BUREAUS

- **Kansas City:** www.kansascity.bbb.org
816-421-7800
- **Springfield:** www.southwestmissouri.bbb.org
417-862-4222
- **St. Louis:** www.stlouis.bbb.org
314-645-3300

Handles consumer complaints throughout Missouri. Offers free mediation services for disputes between customers and businesses.



DIRECT MARKETING ASSOCIATION

Mail Preference Service

P.O. Box 643

Carmel, NY 10512

www.dmachoice.org

Lets you delete your name from many direct mail lists.

FREE CREDIT REPORT

www.annualcreditreport.com

Toll-free 877-322-8228

Get a free credit report three times a year to make sure the transactions are only yours. The law allows you one free report per year from each of the three credit bureaus: Trans Union, Experian and Equifax.

Note: This is the only Web site providing a free credit report. Watch for misleading sites requiring you to buy another product.

MISSOURI LAWYER REFERRAL SERVICE

www.mobar.org

- **St. Louis:** 314-621-6681
- **Kansas City:** 816-221-9472
- **Greene County:** 417-831-2783
- **Jefferson City:** 573-636-3635

Provides lawyer referrals in your area. There is a fee.



Find agencies online: Information on state agencies can be found on Missouri's Web site at www.mo.gov.



**NATIONAL CONSUMER LEAGUE'S
FRAUD CENTER**

www.fraud.org

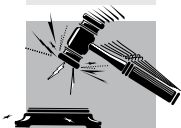
Provides general information and statistics on scams and online complaint forms.

**PRE-APPROVED CREDIT CARD
OFFERS**

www.optoutprescreen.com

888-567-8688

Credit bureaus allow you to “opt out” of having pre-approved offers of credit and insurance sent to you.



File a lawsuit in small claims court

Missouri's small claims court can help consumers with such problems as a landlord who won't return a deposit or a repairman who said he fixed a pipe that still leaks.

Under state law, consumers who have a claim for up to \$3,000 can, **without hiring a lawyer**, file a lawsuit in small claims court to recoup their money.

Before you file suit in small claims court, make sure there is no other way of settling your dispute. You may save yourself a lot of time and effort.

HOW SMALL CLAIMS LAWSUITS ARE FILED

- The plaintiff (the consumer who files the lawsuit) submits the legal documents in the associate circuit court of the county in which he lives. The associate circuit court is housed in the county courthouse. If the person or business you are suing is located in another county or if the product or service was bought in another county, you should file the lawsuit in that county.

17



A fair process: Your lack of legal knowledge should not be a drawback in small claims court.



ago.mo.gov

How to prepare your small claims lawsuit

Some points to remember:

- 1.** Organize relevant materials such as bills, receipts and letters so you can make a complete and orderly presentation at the hearing.
- 2.** Prepare a full but brief statement of the facts in your case.
- 3.** Determine what witnesses, if any, you want to have testify. Reluctant witnesses may be subpoenaed if they are important.
- 4.** Check with the court before the hearing to find out if the defendant has been served with the summons. If service has not been made, the clerk can tell you your options. You may seek a continuance — or postponement — of the court date for this or a similar good reason.
- 5.** Be on time for the hearing. Failure to do so may result in dismissal of your lawsuit.



- Once the lawsuit is filed, a hearing date is scheduled. Hearings may be held in the evening or on Saturday.
- There are modest filing fees in small claims court. You also must pay the cost of mailing the summons by certified mail or delivering it by the sheriff.
- Consumers can file only six lawsuits a year in small claims court.

WHAT HAPPENS IN COURT

When the court date arrives, the consumer who filed the lawsuit tells his side of the story to the judge. The consumer can call witnesses or use any additional information to explain his case.

The defendant (the party being sued) also explains his side of the story to the judge. Do not be intimidated if the defendant is represented by an attorney. The judge has a responsibility to ensure the proceedings remain informal so your lack of legal knowledge will not hinder you.

The judge then questions all parties associated with the case before making a final decision.

If the judge rules in favor of the consumer who filed the lawsuit, the losing party in the case must pay that consumer.



You can find the state statutes at www.moga.mo.gov/statute/search/. The state consumer protection laws are located in Chapter 407.



Court officials, however, do not collect money associated with the judge's ruling.

Consumers who have trouble recouping money awarded in small claims court have additional legal remedies under the law. Associate circuit court officials can explain those options.

The losing party in small claims court also can file an application for a new trial, which will be heard in circuit court. (You usually will need a lawyer's help.) Those applications must be filed in small claims court within 10 days after the judge's order or the losing party in the case is liable for costs associated with the judgment.



Seek legal action in other courts

When other remedies fail and if small claims court is not available to you because the amount in controversy is more than \$3,000, you may want to pursue your case in court. You may wish to contact a lawyer to help you.

Missourians who think they have been defrauded or victimized by unfair practices can file a lawsuit under consumer protection laws seeking actual damages.

In addition to contract and fraud claims, Missourians are offered legal recourse under the Merchandising Practices Act. This law protects Missourians against unfair, misleading and deceptive practices in connection with the sale or advertisement of any merchandise or the solicitation of any funds for any charitable purposes in or from the state of Missouri.

The law, found in Chapter 407 of the Missouri Revised Statutes, allows any person who buys or leases goods or services primarily for personal, family or household purposes and suffers an ascertainable loss of money or personal

21



Small claims court can't be used to recover disputed amounts exceeding \$3,000.



ago.mo.gov

IF YOU NEED A LAWYER

Contact the Missouri Bar Lawyer Referral Service at one of these phone numbers:

- St. Louis: **314-621-6681**
- Kansas City: **816-221-9472**
- Greene County: **417-831-2783**
- Jefferson City: **573-636-3635**

There is a fee.

property as a result of unfair or deceptive trade practices to bring a private civil action.

The lawsuit may be filed in either the circuit court of the county in which the seller or lessor resides or in which the transaction took place to recover actual damages. The court may at its discretion award punitive damages (damages awarded in excess of normal compensation to the plaintiff to punish a defendant for a serious wrong) and may award to the prevailing party attorney's fees, based on the amount of time reasonably spent.



Other brochures

CONSUMER GUIDES

- Know your Rights (for general public)
- Student Consumer Guide (for college students)
- Conozca sus Derechos (for Hispanics)

Publications and consumer topics available at ago.mo.gov:

CAR/HOME

- All About Autos
- Door-to-Door Sales
- Identity Theft
- Landlord-Tenant Law (available in Spanish)
- Lien Law
- Warranties

SOLICITATIONS/SALES

- Contest Cons
- Magazine Sales
- Slamming & Cramming
- Sweepstakes
- Travel Scams
- Vacation Timeshares

HEALTH

- Health & Fitness Clubs
- Life Choices: Plan now for end-of-life care

23

**Get a
free
copy**



CLICK

**ago.
mo.gov**



CALL

Consumer
Protection
Hotline:
**800-392-
8222**



ago.mo.gov

INVESTMENT

- Bank Examiner & Pigeon Drop Schemes
- Business Offers
- Home Equity Loans
- Investment Scams
- Pyramid (get-rich-quick) Schemes

LEGAL/BUSINESS

- The Court Process: How the criminal justice system works
- Credit Repair Scams
- Crime Victims' Rights
- Gambling, Lotteries, Raffles
- Protecting Victims of Domestic Violence
- The Sunshine Law: State's Open Meetings and Records Law



OFFICE OF ATTORNEY GENERAL

CHRIS KOSTER

P.O. Box 899

Jefferson City, MO 65102

573-751-3321

ago.mo.gov



REVISED MARCH 2009